

REMARKS

Claims 67-79 are pending in the Application. No new matter has been added.

Claims 67 and 73 are independent.

On pages 2 and 3 of the Office Action, the Examiner indicated that Claims 67-79 correspond to an inventive method distinct and different from the invention relating to previously presented Claims 21-31, 41, 43-51, 53, 55, 56 and 58-66 and has restricted prosecution to the former invention by original presentation. Applicant respectfully traverses this restriction. Claims 67-79 correspond to the same invention as recited in the originally presented claims.

Originally presented Claims 21-31, 41, 43-51, 53, 55, 56 and 58-66 (hereinafter “the original claims”) relate to a method for modifying data from a financial transaction occurring at a point of sale terminal. Similarly, new Claims 67-79 (hereinafter “the new claims”) also relate to a method of manipulating or apportioning data related to a financial transaction occurring at a point of sale terminal. Further, the original claims relate to the transmission of data associated with a voucher account from the point of sale terminal to a separate network where the data is modified. The new claims relate to transmitting data related to an excess cash payment to a separate processor and apportioning the to one or more voucher accounts.

Applicant respectfully disagrees with the Examiner’s mischaracterization of the utility of each sets of claims. The Examiner states that “[a] utility of the examined invention is transmitting the modified data representing a debit or credit back to the payee and a utility of the newly presented claims is entering a card identified.” It appears that the Examiner has arbitrarily selected *only one* of the features of each set of claims without considering the other, common, utilitarian features and has used these arbitrarily selected features to differentiate between the two sets of claims.

Applicant respectfully disagrees with the Examiner that the only utilitarian feature of the new claims is the step of entering a card identifier. Indeed, that is merely one of the steps recited in the independent method claim. The new claims also recite the steps of entering an amount *into a point of sale terminal* (the old claims recite entering data that identifies a credit or debit amount *into a point of sale terminal*) and *apportioning* at least part of an excess cash payment to *voucher accounts* (the old claims recite *modifying* data associated with *voucher accounts*). Each set of claims recite a method of obtaining data regarding a financial transaction occurring at a point-of-sale terminal, transmitting that data to a separately controlled processor or network, and modifying or apportioning that data to one or more accounts, in this case voucher accounts. Clearly the two sets of claims are not so dissimilar that they rise to the standard of being distinct inventions.

Restriction can only be required when two or more inventions are related or dependent but nevertheless “distinct”. Restriction is never proper when the inventions are related as disclosed but are not distinct as claimed. See MPEP § 806. While having to undergo a separate search may be a *reason* for requiring restriction, restriction is not justified *unless* the two sets of claims recite inventions that are distinct from each other. Clearly, this is not the case here. See MPEP §§ 806.05(j); 808.02.

For all of the above reasons, the restriction requirement is believed to have been overcome. Applicant believes he has addressed the omissions pointed out by the Examiner on Page 2 of the Office Action and respectfully requests withdrawal of the rejection and further requests that the new elected Claims 67-79 be examined on their merits.

The Examiner is encouraged to telephone the undersigned to discuss any matter that would expedite allowance of the present application.

The Commissioner is hereby authorized to credit overpayments or charge payment of any additional fees associated with this communication to Deposit Account No. 502104.

Respectfully submitted,

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